

2009 DRAFTING REQUEST

Bill

Received: **02/03/2009**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Byrnes**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - traffic laws**

Extra Copies: **EVM**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

DOA:.....Byrnes, BB???? -

Topic:

Photo enforcement of speed and stoplight violations

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/P1	agary 02/04/2009	nnatzke 02/04/2009	rschluet 02/04/2009	_____	lparisi 02/04/2009		State
/P2	agary 02/04/2009 agary 02/06/2009	nnatzke 02/04/2009 nnatzke 02/06/2009	rschluet 02/04/2009	_____ _____ _____	lparisi 02/04/2009		State

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/1			rschluet	_____	cduerst		
			02/06/2009	_____	02/06/2009		

FE Sent For:

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/P1	agary 02/04/2009	nnatzke 02/04/2009 /p2 nwn 2/4	rschluet 02/04/2009	_____	lparisi 02/04/2009		

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/?	agary	/p1 nwn 2/4		_____ _____			

FE Sent For:

<END>

Gary, Aaron

From: Byrnes, Tyler - DOA [Tyler.Byrnes@wisconsin.gov]
Sent: Monday, February 02, 2009 11:06 AM
To: Gary, Aaron
Cc: Grinde, Kirsten - DOA; Hanaman, Cathlene; Kraus, Jennifer - DOA
Subject: Photographical Enforcement of Traffic Laws
Attachments: Statlang LRB drafting request - Photo Enforcement.doc

Aaron,

I've attached the drafting request regarding photographical enforcement.

Thanks,

Tyler

02/02/2009

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Photographical Enforcement of Traffic Laws
- Tracking Code:
- SBO team: Tax, Transportation and Budget Development Team
- SBO analyst: Tyler Byrnes
 - Phone: 266-1039
 - Email: tyler.byrnes@wisconsin.gov
- Agency acronym: DOT
- Agency number: 395
- Priority (Low, Medium, High): High

Intent: Please prepare a draft that allows local law enforcement agencies the ability to enforce traffic laws by using photography equipment to enforce any traffic law, including "photo radar speed detection", as referenced in 349.02(3)(b).

Gary, Aaron

To: Hanaman, Cathlene
Subject: RE: Stop Lights and Construction Zones

-----Original Message-----

From: Kraus, Jennifer - DOA [mailto:jennifer.kraus@wisconsin.gov]
Sent: Tuesday, February 03, 2009 8:18 AM
To: Grinde, Kirsten - DOA; Byrnes, Tyler - DOA; Hanaman, Cathlene
Cc: Schmiedicke, David P - DOA
Subject: FW: Stop Lights and Construction Zones

Cathlene -- is this possible? Thanks - Jenny

-----Original Message-----

From: Renlund, Cari Anne - DOA
Sent: Tuesday, February 03, 2009 6:59 AM
To: Kraus, Jennifer - DOA
Cc: Renlund, Cari Anne - DOA
Subject: Stop Lights and Construction Zones

Hi Jenny;

I left you a message about this late yesterday. I heard from Michael Morgan about the Stop Lights and Construction Zones matters they would like in the Budget. I explained that it might not be possible to get this in the budget at this point. He understood that, but would like to see if the drafters can do it. I would like to talk to you about that. Today, I can be reached at 712-6629.

This is what they want drafted:

-allow cameras to be used for speed enforcement in construction zones throughout the state
-allow cameras to be used on stop lights to cite those whose cars run red lights (anywhere in the state)
-create a rebuttal presumption for owner's liability -- if your car is photographed violating either of these provisions, it is presumed that you were driving the car and you get the ticket, however, you can rebut that presumption with proof that another was driving the car instead of you.

Thank you,

Cari Anne



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1921/P1

ARG: j....

rwn

in
2/4

DOA:.....Byrnes, BB???? - Photo enforcement of speed and stoplight violations

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D - Note

SA ✓
x-ref ✓

DOT 1 ^{don't gen.} AN ACT ...; relating to: the budget.

The Department of Transportation

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, law enforcement officers are prohibited from using any radar device combined with photographic identification of a vehicle (photo radar speed detection) to determine compliance with motor vehicle speed limits. Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating certain traffic laws, including illegally passing a school bus or fire truck, illegally crossing a railroad crossing or controlled school crossing, and failing to yield the right-of-way to an emergency vehicle or a funeral procession.

This bill allows state and local law enforcement agencies to use photo radar speed detection to identify speed limit violations in highway work zones (work zone speed violations). The bill also allows state and local authorities to use traffic control photographic systems to identify motor vehicles that fail to stop at red traffic signals at intersections (red light violations). The bill imposes liability on the owner of a vehicle involved in a work zone speed violation detected through photo radar speed detection or involved in a red light violation detected by a traffic control photographic system. If a traffic officer prepares a uniform traffic citation for such a violation within 48 hours after the violation and sends to the owner of the vehicle, by certified

stat.
photo radar speed detection

stat.
traffic control

mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle involved in the violation, the owner is liable for the violation, subject to certain defenses. The owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation, but the owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record. Among the defenses available to an owner, the owner is not liable if the owner identifies the operator of the vehicle at the time of the violation and the operator admits to being the operator or if the owner has reported the vehicle as stolen. If an owner successfully asserts certain defenses, the person operating the vehicle at the time of the violation may be charged with the violation.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.01 (2) of the statutes is amended to read:

2 346.01 (2) In this chapter, notwithstanding s. 340.01 (42), "owner" means, with
3 respect to a vehicle that is registered, or is required to be registered, by a lessee of
4 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
5 liability under ss. 346.175, 346.195, 346.205, 346.375, 346.452, 346.457, 346.465,
6 346.485, 346.505 (3), 346.575, 346.675, and 346.945.

History: 1997 a. 27; 2003 a. 209; 2005 a. 11

7 **SECTION 2.** 346.375 of the statutes is created to read:

8 **346.375 Owner's liability for traffic control signal violations detected**
9 **by photographic systems.** (1) In this section, "traffic control photographic
10 system" means an electronic system consisting of a photographic, video, or electronic
11 camera and a vehicle sensor installed for use with an official traffic control signal to
12 automatically produce photographs or video or digital images, stamped with the time
13 and date, of vehicles moving through an intersection.

14 (2) ^{The department, and} Any ~~state or~~ local authority, with jurisdiction over highways may use traffic
15 control photographic systems on highways under its jurisdiction for the purpose of

1 detecting any violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity
2 with s. 346.37 (1) (c) 1. or 3. Subject to sub. (4) (b), the owner of a vehicle involved
3 in a violation of s. 346.37 (1) (c) 1. or 3., or of a local ordinance in conformity with s.
4 346.37 (1) (c) 1. or 3., that is detected by a traffic control photographic system shall
5 be liable for the violation as provided in this section.

6 (3) If a traffic officer prepares a uniform traffic citation under s. 345.11 for a
7 violation of this section, the officer shall serve the owner of the vehicle with the
8 citation by mailing the citation by certified mail addressed to the owner's last-known
9 address within 48 hours after the violation. A traffic officer shall send with the
10 citation a duplicate of each photograph, video, or digital image, taken by the traffic
11 control photographic system, of the vehicle involved in the violation.

12 (4) (a) Except as provided in par. (b), it is not a defense to a violation of this
13 section that the owner was not operating the vehicle at the time of the violation.

14 (b) All of the following are defenses to a violation of this section:

15 1. That a report that the vehicle was stolen was made by the owner to a law
16 enforcement agency before the violation occurred or within a reasonable time after
17 the violation occurred.

18 2. That the owner of the vehicle provided a traffic officer with the name and
19 address of the person operating the vehicle at the time of the violation and the person
20 so named admits operating the vehicle at the time of the violation. In that case, the
21 person operating the vehicle may be charged with a violation of s. 346.37 (1) (c) 1. or
22 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3.

23 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
24 of the lessor, that at the time of the violation the vehicle was in the possession of a
25 lessee, and that the lessor provided a traffic officer with the information required

1 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
2 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3.

3 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
4 including the persons specified in s. 340.01 (11) (a) to (d), ^{that} at the time of the violation
5 the vehicle was being operated by a person on a trial run, and ^{that} the dealer provided
6 a traffic officer with the name, address, and operator's license number of the person
7 operating the vehicle. In that case, the person operating the vehicle may be charged
8 with a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s.
9 346.37 (1) (c) 1. or 3.

10 **SECTION 3.** 346.43 (4) of the statutes is created to read:

11 346.43 (4) A vehicle owner found liable under s. 346.375 is subject to a
12 forfeiture in the same amount that may be imposed on a vehicle operator for the
13 corresponding violation of s. 346.37 (1) (c) 1. or 3. including, if applicable, the
14 doubling of the forfeiture as provided in sub. (1) (a) 3. For purposes of this subsection,
15 a person's prior violation of s. 346.37 (1) (c) 1. or 3. ^{set} may be counted as a prior violation
16 of s. 346.375. Imposition of liability under s. 346.375 shall not result in suspension
17 or revocation of a person's operating privilege under s. 343.30 or 343.31, nor shall it
18 result in demerit points being recorded on a person's driving record under s. 343.32
19 (2) (a).

20 **SECTION 4.** 346.575 of the statutes is created to read:

21 **346.575 Owner's liability for speed restriction violations detected by**
22 **photo radar in work zones.** (1) In this section:

23 (a) "Highway work zone" means a highway maintenance or construction area
24 on or adjacent to a highway where persons engaged in work are at risk from traffic.

25 (b) "Photo radar speed detection" has the meaning given in s. 349.02 (3) (a).

1 (2) Notwithstanding s. 349.02 (3) (b), any state or local law enforcement agency
2 with jurisdiction over traffic violations may use photo radar speed detection to
3 determine compliance with any speed restriction established under s. 346.57 or
4 349.11, or a local ordinance in conformity with s. 346.57 or 349.11, in a highway work
5 zone. Subject to sub. (4) (b), the owner of a vehicle involved in a violation of s. 346.57,
6 or a local ordinance in conformity with s. 346.57, in a highway work zone that is
7 determined by photo radar speed detection shall be liable for the violation as
8 provided in this section.

9 (3) If a traffic officer prepares a uniform traffic citation under s. 345.11 for a
10 violation of this section, the officer shall serve the owner of the vehicle with the
11 citation by mailing the citation by certified mail addressed to the owner's last-known
12 address within 48 hours after the violation. A traffic officer shall send with the
13 citation a duplicate of each photograph, video, or digital image, taken by the photo
14 radar speed detection system, of the vehicle involved in the violation.

15 (4) (a) Except as provided in par. (b), it is not a defense to a violation of this
16 section that the owner was not operating the vehicle at the time of the violation.

17 (b) All of the following are defenses to a violation of this section:

18 1. That a report that the vehicle was stolen was made by the owner to a law
19 enforcement agency before the violation occurred or within a reasonable time after
20 the violation occurred.

21 2. That the owner of the vehicle provided a traffic officer with the name and
22 address of the person operating the vehicle at the time of the violation and the person
23 so named admits operating the vehicle at the time of the violation. In that case, the
24 person operating the vehicle may be charged with a violation of s. 346.57 or a local
25 ordinance in conformity with s. 346.57.

1 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
2 of the lessor, that at the time of the violation the vehicle was in the possession of a
3 lessee, and that the lessor provided a traffic officer with the information required
4 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
5 346.57 or a local ordinance in conformity with s. 346.57.

6 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
7 including the persons specified in s. 340.01 (11) (a) to (d), ^{that} at the time of the violation
8 the vehicle was being operated by a person on a trial run, and ^{that} the dealer provided
9 a traffic officer with the name, address, and operator's license number of the person
10 operating the vehicle. In that case, the person operating the vehicle may be charged
11 with a violation of s. 346.57 or a local ordinance in conformity with s. 346.57.

12 **SECTION 5.** 346.60 (6) of the statutes is created to read:

13 346.60 (6) A vehicle owner found liable under s. 346.575 is subject to a
14 forfeiture in the same amount that may be imposed on a vehicle operator for the
15 corresponding violation of s. 346.57 including, if applicable, the doubling of the
16 forfeiture as provided in sub. (3m) (a). For purposes of this subsection, a person's
17 prior violation of s. 346.57 may be counted as a prior violation of s. 346.575.
18 Imposition of liability under s. 346.575 shall not result in suspension or revocation
19 of a person's operating privilege under s. 343.30 or 343.31, nor shall it result in
20 demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

21 (END)

1-1576

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

Date

LRB-1921/P1dn

ARG:1:....

nwn

ATTN: Tyler Byrnes and Jana Steinmetz

The attached draft is based upon the description provided by Cari Anne Renlund and forwarded to Cathlene Hanaman.✓

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

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February 4, 2009

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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1921/P2

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RMR

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1-note

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mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle involved in the violation, the owner is liable for the violation, subject to certain defenses. The owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation, but the owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record. Among the defenses available to an owner, the owner is not liable if the owner identifies the operator of the vehicle at the time of the violation and the operator admits to being the operator or if the owner has reported the vehicle as stolen. If an owner successfully asserts certain defenses, the person operating the vehicle at the time of the violation may be charged with the violation.

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11 camera and a vehicle sensor installed for use with an official traffic control signal to
12 automatically produce photographs or video or digital images, stamped with the time
13 and date, of vehicles moving through an intersection.

14 (2) The department, and any local authority, may use traffic control
15 photographic systems on highways under its jurisdiction for the purpose of detecting

1 any violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s.
2 346.37 (1) (c) 1. or 3. Subject to sub. (4) (b), the owner of a vehicle involved in a
3 violation of s. 346.37 (1) (c) 1. or 3., or of a local ordinance in conformity with s. 346.37
4 (1) (c) 1. or 3., that is detected by a traffic control photographic system shall be liable
5 for the violation as provided in this section.

6 (3) If a traffic officer prepares a uniform traffic citation under s. 345.11 for a
7 violation of this section, the officer shall serve the owner of the vehicle with the
8 citation by mailing the citation by certified mail addressed to the owner's last-known
9 address within 48 hours after the violation. A traffic officer shall send with the
10 citation a duplicate of each photograph, video, or digital image, taken by the traffic
11 control photographic system, of the vehicle involved in the violation.

12 (4) (a) Except as provided in par. (b), it is not a defense to a violation of this
13 section that the owner was not operating the vehicle at the time of the violation.

14 (b) All of the following are defenses to a violation of this section:

15 1. That a report that the vehicle was stolen was made by the owner to a law
16 enforcement agency before the violation occurred or within a reasonable time after
17 the violation occurred.

18 2. That the owner of the vehicle provided a traffic officer with the name and
19 address of the person operating the vehicle at the time of the violation and the person
20 so named admits operating the vehicle at the time of the violation. In that case, the
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9 in conformity with s. 346.37 (1) (c) 1. or 3.

10 **SECTION 3.** 346.43 (4) of the statutes is created to read:

11 346.43 (4) A vehicle owner found liable under s. 346.375 is subject to a
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14 doubling of the forfeiture as provided in sub. (1) ^(b) ~~(a)~~ 3. For purposes of this subsection,
15 a person's prior violation of s. 346.37 (1) (c) 1. or 3. may be counted as a prior violation
16 of s. 346.375. Imposition of liability under s. 346.375 shall not result in suspension
17 or revocation of a person's operating privilege under s. 343.30 or 343.31, nor shall it
18 result in demerit points being recorded on a person's driving record under s. 343.32
19 (2) (a).

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22 **photo radar in work zones.** (1) In this section:

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24 on or adjacent to a highway where persons engaged in work are at risk from traffic.

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23 so named admits operating the vehicle at the time of the violation. In that case, the
24 person operating the vehicle may be charged with a violation of s. 346.57 or a local
25 ordinance in conformity with s. 346.57.

1 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
2 of the lessor, that at the time of the violation the vehicle was in the possession of a
3 lessee, and that the lessor provided a traffic officer with the information required
4 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
5 346.57 or a local ordinance in conformity with s. 346.57.

6 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
7 including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the
8 violation the vehicle was being operated by a person on a trial run, and that the
9 dealer provided a traffic officer with the name, address, and operator's license
10 number of the person operating the vehicle. In that case, the person operating the
11 vehicle may be charged with a violation of s. 346.57 or a local ordinance in conformity
12 with s. 346.57.

13 **SECTION 5.** 346.60 (6) of the statutes is created to read:

14 346.60 (6) A vehicle owner found liable under s. 346.575 is subject to a
15 forfeiture in the same amount that may be imposed on a vehicle operator for the
16 corresponding violation of s. 346.57 including, if applicable, the doubling of the
17 forfeiture as provided in sub. (3m) (a). For purposes of this subsection, a person's
18 prior violation of s. 346.57 may be counted as a prior violation of s. 346.575.
19 Imposition of liability under s. 346.575 shall not result in suspension or revocation
20 of a person's operating privilege under s. 343.30 or 343.31, nor shall it result in
21 demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

22 (END)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1921/P2dn

ARG:.....

ATTN: Tyler Byrnes and Jana Steinmetz

The attached redraft corrects an inaccurate cross-reference in the /P1 draft on p. 4, line 14.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1921/P2dn
ARG:nwn:rs

February 4, 2009

ATTN: Tyler Byrnes and Jana Steinmetz

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Aaron R. Gary
Legislative Attorney
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1921/P21

ARG:nwn:rs

(RMR)

2/5 - per Jana, 72 hrs

DOA:.....Byrnes, BB???? - Photo enforcement of speed and stoplight violations

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ^{don't gen.}...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, law enforcement officers are prohibited from using any radar device combined with photographic identification of a vehicle (photo radar speed detection) to determine compliance with motor vehicle speed limits. Current law also imposes, with exceptions, liability on the owner of a vehicle that is observed violating certain traffic laws, including illegally passing a school bus or fire truck, illegally crossing a railroad crossing or controlled school crossing, and failing to yield the right-of-way to an emergency vehicle or a funeral procession.

This bill allows state and local law enforcement agencies to use photo radar speed detection to identify speed limit violations in highway work zones (work zone speed violations). The bill also allows DOT and local authorities to use traffic control photographic systems to identify motor vehicles that fail to stop at red traffic signals at intersections (red light violations). The bill imposes liability on the owner of a vehicle involved in a work zone speed violation detected through photo radar speed detection or involved in a red light violation detected by a traffic control photographic system. If a traffic officer prepares a uniform traffic citation for such a violation within 48 hours after the violation and sends to the owner of the vehicle, by certified

*

mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle involved in the violation, the owner is liable for the violation, subject to certain defenses. The owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation, but the owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record. Among the defenses available to an owner, the owner is not liable if the owner identifies the operator of the vehicle at the time of the violation and the operator admits to being the operator or if the owner has reported the vehicle as stolen. If an owner successfully asserts certain defenses, the person operating the vehicle at the time of the violation may be charged with the violation.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.01 (2) of the statutes is amended to read:

2 346.01 (2) In this chapter, notwithstanding s. 340.01 (42), "owner" means, with
3 respect to a vehicle that is registered, or is required to be registered, by a lessee of
4 the vehicle under ch. 341, the lessee of the vehicle for purposes of vehicle owner
5 liability under ss. 346.175, 346.195, 346.205, 346.375, 346.452, 346.457, 346.465,
6 346.485, 346.505 (3), 346.575, 346.675, and 346.945.

7 **SECTION 2.** 346.375 of the statutes is created to read:

8 **346.375 Owner's liability for traffic control signal violations detected**
9 **by photographic systems.** (1) In this section, "traffic control photographic
10 system" means an electronic system consisting of a photographic, video, or electronic
11 camera and a vehicle sensor installed for use with an official traffic control signal to
12 automatically produce photographs or video or digital images, stamped with the time
13 and date, of vehicles moving through an intersection.

14 (2) The department, and any local authority, may use traffic control
15 photographic systems on highways under its jurisdiction for the purpose of detecting

1 any violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s.
2 346.37 (1) (c) 1. or 3. Subject to sub. (4) (b), the owner of a vehicle involved in a
3 violation of s. 346.37 (1) (c) 1. or 3., or of a local ordinance in conformity with s. 346.37
4 (1) (c) 1. or 3., that is detected by a traffic control photographic system shall be liable
5 for the violation as provided in this section.

6 (3) If a traffic officer prepares a uniform traffic citation under s. 345.11 for a
7 violation of this section, the officer shall serve the owner of the vehicle with the
8 citation by mailing the citation by certified mail addressed to the owner's last-known
9 address within ⁷²48 hours after the violation. A traffic officer shall send with the
10 citation a duplicate of each photograph, video, or digital image, taken by the traffic
11 control photographic system, of the vehicle involved in the violation.

12 (4) (a) Except as provided in par. (b), it is not a defense to a violation of this
13 section that the owner was not operating the vehicle at the time of the violation.

14 (b) All of the following are defenses to a violation of this section:

15 1. That a report that the vehicle was stolen was made by the owner to a law
16 enforcement agency before the violation occurred or within a reasonable time after
17 the violation occurred.

18 2. That the owner of the vehicle provided a traffic officer with the name and
19 address of the person operating the vehicle at the time of the violation and the person
20 so named admits operating the vehicle at the time of the violation. In that case, the
21 person operating the vehicle may be charged with a violation of s. 346.37 (1) (c) 1. or
22 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3.

23 3. That the vehicle is owned by a lessor of vehicles and is registered in the name
24 of the lessor, that at the time of the violation the vehicle was in the possession of a
25 lessee, and that the lessor provided a traffic officer with the information required

1 under s. 343.46 (3). In that case, the lessee may be charged with a violation of s.
2 346.37 (1) (c) 1. or 3. or a local ordinance in conformity with s. 346.37 (1) (c) 1. or 3.

3 4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but
4 including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the
5 violation the vehicle was being operated by a person on a trial run, and that the
6 dealer provided a traffic officer with the name, address, and operator's license
7 number of the person operating the vehicle. In that case, the person operating the
8 vehicle may be charged with a violation of s. 346.37 (1) (c) 1. or 3. or a local ordinance
9 in conformity with s. 346.37 (1) (c) 1. or 3.

10 **SECTION 3.** 346.43 (4) of the statutes is created to read:

11 346.43 (4) A vehicle owner found liable under s. 346.375 is subject to a
12 forfeiture in the same amount that may be imposed on a vehicle operator for the
13 corresponding violation of s. 346.37 (1) (b) 1. or 3. including, if applicable, the
14 doubling of the forfeiture as provided in sub. (1) (b) 3. For purposes of this subsection,
15 a person's prior violation of s. 346.37 (1) (c) 1. or 3. may be counted as a prior violation
16 of s. 346.375. Imposition of liability under s. 346.375 shall not result in suspension
17 or revocation of a person's operating privilege under s. 343.30 or 343.31, nor shall it
18 result in demerit points being recorded on a person's driving record under s. 343.32
19 (2) (a).

20 **SECTION 4.** 346.575 of the statutes is created to read:

21 **346.575 Owner's liability for speed restriction violations detected by**
22 **photo radar in work zones.** (1) In this section:

23 (a) "Highway work zone" means a highway maintenance or construction area
24 on or adjacent to a highway where persons engaged in work are at risk from traffic.

25 (b) "Photo radar speed detection" has the meaning given in s. 349.02 (3) (a).

1 (2) Notwithstanding s. 349.02 (3) (b), any state or local law enforcement agency
2 with jurisdiction over traffic violations may use photo radar speed detection to
3 determine compliance with any speed restriction established under s. 346.57 or
4 349.11, or a local ordinance in conformity with s. 346.57 or 349.11, in a highway work
5 zone. Subject to sub. (4) (b), the owner of a vehicle involved in a violation of s. 346.57,
6 or a local ordinance in conformity with s. 346.57, in a highway work zone that is
7 determined by photo radar speed detection shall be liable for the violation as
8 provided in this section.

9 (3) If a traffic officer prepares a uniform traffic citation under s. 345.11 for a
10 violation of this section, the officer shall serve the owner of the vehicle with the
11 citation by mailing the citation by certified mail addressed to the owner's last-known
12 address within ⁷²48 hours after the violation. A traffic officer shall send with the
13 citation a duplicate of each photograph, video, or digital image, taken by the photo
14 radar speed detection system, of the vehicle involved in the violation.

15 (4) (a) Except as provided in par. (b), it is not a defense to a violation of this
16 section that the owner was not operating the vehicle at the time of the violation.

17 (b) All of the following are defenses to a violation of this section:

18 1. That a report that the vehicle was stolen was made by the owner to a law
19 enforcement agency before the violation occurred or within a reasonable time after
20 the violation occurred.

21 2. That the owner of the vehicle provided a traffic officer with the name and
22 address of the person operating the vehicle at the time of the violation and the person
23 so named admits operating the vehicle at the time of the violation. In that case, the
24 person operating the vehicle may be charged with a violation of s. 346.57 or a local
25 ordinance in conformity with s. 346.57.

3. That the vehicle is owned by a lessor of vehicles and is registered in the name of the lessor, that at the time of the violation the vehicle was in the possession of a lessee, and that the lessor provided a traffic officer with the information required under s. 343.46 (3). In that case, the lessee may be charged with a violation of s. 346.57 or a local ordinance in conformity with s. 346.57.

4. That the vehicle is owned by a dealer, as defined in s. 340.01 (11) (intro.), but including the persons specified in s. 340.01 (11) (a) to (d), that at the time of the violation the vehicle was being operated by a person on a trial run, and that the dealer provided a traffic officer with the name, address, and operator's license number of the person operating the vehicle. In that case, the person operating the vehicle may be charged with a violation of s. 346.57 or a local ordinance in conformity with s. 346.57.

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346.60 (6) A vehicle owner found liable under s. 346.575 is subject to a forfeiture in the same amount that may be imposed on a vehicle operator for the corresponding violation of s. 346.57 including, if applicable, the doubling of the forfeiture as provided in sub. (3m) (a). For purposes of this subsection, a person's prior violation of s. 346.57 may be counted as a prior violation of s. 346.575. Imposition of liability under s. 346.575 shall not result in suspension or revocation of a person's operating privilege under s. 343.30 or 343.31, nor shall it result in demerit points being recorded on a person's driving record under s. 343.32 (2) (a).

(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1921/1

ARG:nwn:rs

DOA:.....Byrnes, BB???? - Photo enforcement of speed and stoplight violations

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

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DRIVERS AND MOTOR VEHICLES

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mail, the traffic citation and a duplicate of the photograph, video, or digital image of the vehicle involved in the violation, the owner is liable for the violation, subject to certain defenses. The owner is subject to the same forfeiture that would be applicable to the vehicle operator for the violation, but the owner's operating privilege may not be suspended or revoked, and no demerit points may be recorded against the owner's driving record. Among the defenses available to an owner, the owner is not liable if the owner identifies the operator of the vehicle at the time of the violation and the operator admits to being the operator or if the owner has reported the vehicle as stolen. If an owner successfully asserts certain defenses, the person operating the vehicle at the time of the violation may be charged with the violation.

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17 the violation occurred.

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20 so named admits operating the vehicle at the time of the violation. In that case, the
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7 determined by photo radar speed detection shall be liable for the violation as
8 provided in this section.

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11 citation by mailing the citation by certified mail addressed to the owner's last-known
12 address within 72 hours after the violation. A traffic officer shall send with the
13 citation a duplicate of each photograph, video, or digital image, taken by the photo
14 radar speed detection system, of the vehicle involved in the violation.

15 (4) (a) Except as provided in par. (b), it is not a defense to a violation of this
16 section that the owner was not operating the vehicle at the time of the violation.

17 (b) All of the following are defenses to a violation of this section:

18 1. That a report that the vehicle was stolen was made by the owner to a law
19 enforcement agency before the violation occurred or within a reasonable time after
20 the violation occurred.

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22 address of the person operating the vehicle at the time of the violation and the person
23 so named admits operating the vehicle at the time of the violation. In that case, the
24 person operating the vehicle may be charged with a violation of s. 346.57 or a local
25 ordinance in conformity with s. 346.57.

3. That the vehicle is owned by a lessor of vehicles and is registered in the name of the lessor, that at the time of the violation the vehicle was in the possession of a lessee, and that the lessor provided a traffic officer with the information required under s. 343.46 (3). In that case, the lessee may be charged with a violation of s. 346.57 or a local ordinance in conformity with s. 346.57.

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(END)